

[REDACTED]
[REDACTED]
[REDACTED]
FEB 04 1981

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under section 501(c)(3) of the code as a charitable organization.

The information submitted shows that you were incorporated under the non-profit, non-stock laws of the State of [REDACTED] on [REDACTED].

As stated on your Articles of Incorporation, your purposes are to maintain and supervise the common areas owned by the Association and to perpetuate the neighborhood scheme of [REDACTED] by promulgating and enforcing the deed restrictions and the rules and regulations of the Association.

The Deed Restrictions describe the architectural restrictions for the type of buildings and utilities that may be used by owners. The Restriction also mandates that only owners of lots on [REDACTED] are members of the Association.

Your primary activities consist of owning and maintaining ponds and grass lands within [REDACTED].

Your income is derived from membership dues and assessments. Expenses consist of maintenance, real estate taxes, insurance, legal fees, and miscellaneous costs.

Section 501(c)(3) of the code provides for exemption from Federal income tax of organizations organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which moves to the benefit of any private shareholder or individual.

[REDACTED]

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one of the purposes specified in the section. The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities. If an organization does not meet either the organizational or operational test, it is not exempt.

Revenue Ruling 70-186, 1970-1 C.B. 128, states that an organization formed to preserve a lake as a public recreational facility and to improve the condition of the water in the lake to enhance its recreational features, was operating for a public purpose, and was performing a charitable activity, therefore qualifying for exemption under section 501(c)(3).

In comparison, Revenue Ruling 75-286, 1975-2 C.B. 210, states that a non-profit organization with membership limited to the residents within a city block, formed to preserve and beautify public areas in the block, does not qualify for exemption under section 501(c)(3). Although the organization was primarily engaged in promoting the general welfare of the community, it was not organized and operated exclusively for charitable purposes.

Your organization resembles the one described in Revenue Ruling 75-286 like that organization, your membership is limited to property owners in [REDACTED] subdivision. The area owned and maintained by your organization is private property, not to be utilized by the public.

The restricted nature of your membership and the limited area in which your improvements are made, indicate that the organization is organized and operated to serve the private interests of its members.

Based on the information submitted and the applicable law cited above, we conclude that you are primarily organized and operated to provide services for the personal benefit of your members and not primarily for promoting in some way the charitable, educational, religious purposes outlined in section 501(c)(3). Therefore, you do not qualify for exemption from Federal income tax section 501(c)(3) of the Code.

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to section 528 of the Internal Revenue code which provides certain procedures by which a qualifying homeowners association may elect to be treated as a tax exempt organization. This section of the code was included in the Tax Reform Act of 1976. If you determine that you do not qualify under section 528, you must file corporate tax returns on Form 1120.

[REDACTED]

A copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

If you do not appeal this determination within 30 days from the date of this letter, as explained in publication 892, this letter will become our final determination on this matter. Further, if you do not appeal this determination within the time provided, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the code provides, in part, that a declaratory judgment or decree under this section shall not be reserved in any proceeding unless the tax court, the claims court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892
cc: POA - [REDACTED]